

(Rev. 01-31-2003)

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FEDERAL BUREAU OF INVESTIGATION

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Precedence: ROUTINE

Date: 12/05/2003

To: Counterterrorism

Attn: ITOS1, ETIU-4,

SSA [REDACTED]

IOS [REDACTED]

International Operations

Attn: SSA [REDACTED]

New York

Attn: PENTTBOM Team,

SA [REDACTED]

Washington Field

Attn: Squad IT-6,

SA [REDACTED]

From: Berlin

Contact: SA [REDACTED]

Approved By: [REDACTED]

Drafted By: [REDACTED]

:cta

Case ID #: 315N-WF-227135 (Pending)

Title: ABDELGHANI MZOU DI, aka

Talha

IT-AOT

Synopsis: Report testimony of Mohamed Abdulla Mohamed Awady provided on 10/24/2003.

Administrative: All court proceedings were conducted in the German language. SA [REDACTED] translated his summary notes from German into English.

Enclosure(s): Enclosed is one (1) FD-340 containing original notes concerning Mohamed Abdulla Mohamed Awady's testimony and the court proceedings.

Details: On 10/24/2003, Special Agent ("SA") [REDACTED] attended the morning session of the criminal trial of Abdelghani Mzoudi convened by the Third Criminal Panel of the Hanseatic Higher Regional Court (3. Strafsenat des Hanseatisches Oberlandesgericht) in Hamburg, Germany.

Appearing for the prosecution were Chief Prosecutor Walter Hemberger and Prosecutors Dr. Matthias Krauß and Gerhardt Hummer from the Federal Prosecutor's Office for the Federal Republic of Germany ("Generalbundesanwaltschaft").

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Appearing for the defense were Gül Pinar and Michael Rosenthal.

Appearing for the civil litigants ("Nebenkläger") were Andreas Schulz, and Dr. (First Name Unknown) von Grönnen, appearing on behalf of Dr. Ulrich von Jeinsen, and other German attorneys appearing on behalf of the various civil litigants.

The court now called Mohamed Abdulla Mohamed Awady (hereinafter "Awady"), a twenty-five (25) year old male, student residing in Bochum, Germany, to testify about Marwan Yousef Mohamed Rashed Al-Shehhi (hereinafter "Al-Shehhi").

Awady advised the court that he was not related to Abdelghani Mzoudi, Mounir El Motassadeq, Ramzi Mohammed Abdullah Binalshibh, Said Bahaji or Zakariya Essabar.

Awady knew Al-Shehhi from Dubai in the United Arab Emirates. They had met when they both traveled to Germany from the United Arab Emirates.

Awady and Al-Shehhi attended the same German language course at the Goethe Institute in Bonn, Germany, and lived together for six (6) months. After completing the language course, they both took the university admissions examination at the same time.

Upon admission to the university in Bonn, they also attended the same university preparatory course ("Studiumkollegium") for two (2) weeks. Thereafter, Awady left Bonn in 1997 and moved to Cologne, Germany. Al-Shehhi stayed in Bonn to finish the university preparatory course ("Studiumkollegium").

Awady described Al-Shehhi as a regular guy with whom one could have a regular conversation.

Al-Shehhi was frugal and did not spend much money. He sometimes rented cars to take trips to France, the Netherlands and to Berlin.

Al-Shehhi was "cool." He wore regular label clothing and had a short beard. He was also a Muslim and prayed five (5) times each day. Usually, he would pray at home, but on Fridays, he would pray in the mosque in Bonn.

When Al-Shehhi first moved to Hamburg, he maintained regular contact with Awady. They would sometimes meet in Bonn. Awady also traveled to Hamburg a few times to see Al-Shehhi.

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Al-Shehhi had enrolled in the University of Hamburg to study shipbuilding. Awady noted that there were only two (2) locations where one could study shipbuilding, namely at the universities in Hamburg or Duisburg.

However, Al-Shehhi had to return to Bonn approximately six (6) months after arriving in Hamburg, since he had to repeat the university preparatory course ("Studiumkollegium") in Bonn.

During this time period, Awady was living in Cologne and did not have much time to visit with Al-Shehhi. Likewise, Al-Shehhi was also very busy and did not have much time to see Awady either.

Awady's contact with Al-Shehhi consisted of the occasional telephone call. He thought that he might have spoken telephonically with Al-Shehhi about once or twice a month.

After a while the contact between the two diminished. Al-Shehhi called Awady once to invite him to his wedding in Dubai on 01/15/2000. Al-Shehhi explained that he wanted to invite all of his friends from Germany to the wedding. Awady went and visited Al-Shehhi in Dubai in 2000.

Awady saw Al-Shehhi once in Hamburg. Awady had heard from Harad (phonetic) (Last Name Unknown) that Al-Shehhi was in Hamburg. When he saw Al-Shehhi, he was surprised to see that he was not like the "old" Al-Shehhi. Instead, Awady noticed that Al-Shehhi's personality had changed.

For example, when Awady first knew Al-Shehhi he lived alone in a new apartment. Now, Al-Shehhi was living in an old apartment with a roommate and without a television set. Al-Shehhi had also given up his label clothing in favor of cheap clothing and cheap jeans.

Al-Shehhi also asked Awady if he was praying regularly and attending prayer services in the mosque. Awady asked him why he was so concerned about this, but Al-Shehhi did not give him a response.

Al-Shehhi told Awady that his studies were too difficult.

Awady asked a friend about the person with whom Al-Shehhi was sharing the apartment. The friend told Awady that it was someone from Yemen.

Awady then returned home to Bochum, Germany. The next time that he saw Al-Shehhi again was in Dubai, United Arab Emirates for Al-Shehhi's wedding. Awady was surprised to see that Al-Shehhi had shaved off his beard and was acting like the "old" Al-Shehhi.

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Awady also saw Al-Shehhi once more in Bonn. He was unsure if this occurred before or after the wedding in Dubai, but he thought that it might have been after the wedding. At that time, Al-Shehhi wore Afghan-style clothing. Awady had to laugh about Al-Shehhi's manner of dress. They joked that it was a pajamas, but Al-Shehhi said that it was to pray in.

When Awady was in Bonn, he went looking for their friend Nafa (phonetic) (Last Name Not Provided). Awady saw Al-Shehhi in the company of Nafa.

Awady did not ask Al-Shehhi about his studies or what he was doing when he saw him.

Awady also noticed that Al-Shehhi was concentrating upon other matters, such as religion and praying. Al-Shehhi had previously not been so interested in religion.

Awady had a contact telephone number for Al-Shehhi, but when he tried to call that telephone number, the telephone number did not work. Later, Awady called a mutual friend and asked him for Al-Shehhi's new telephone number. The friend informed Awady that Al-Shehhi did not have a telephone or a cellular telephone.

At some point, the Embassy for the United Arab Emirates called Awady and asked him whether he knew where to locate Al-Shehhi. Khalid (Last Name Not Provided) specifically asked him whether Al-Shehhi was with [REDACTED] in Bochum. Later, Al-Shehhi's brother came to Hamburg from the United Arab Emirates to look for him.

Awady testified that the Embassy for the United Arab Emirates monitored their educational studies, and checked up on them.

Chief Judge Klaus Rühle asked whether it was true that they had shared an apartment in Bad Godesberg, Germany near Bonn, and that Al-Shehhi later lived with two (2) families in Bad Godesberg. It had been documented in Awady's statement provided to police investigators that Al-Shehhi had moved out of the first family's home since they drank alcohol.

Awady testified that this was true.

Awady did not know the people with whom Al-Shehhi associated in Hamburg.

When Awady asked Al-Shehhi why he lived so frugally and why he did not have a television set in his apartment in Hamburg, Al-Shehhi answered that he was living like the Prophet had once lived.

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When Awady broke off his contact with Al-Shehhi in 2000, he believed that Al-Shehhi was on a "Jihad" somewhere in Afghanistan. Awady explained that he knew Al-Shehhi, and he believed that Al-Shehhi would do such a thing.

After Khalid (LNU) called him to inquire why Al-Shehhi was not attending his classes at the university, Awady called Al-Shehhi and asked to meet him in Hamburg. Al-Shehhi told Awady not to come to Hamburg. He did not want to see Awady.

Awady believed that Al-Shehhi did not want him to see how he was living in Hamburg, and then report this back to the Embassy for the United Arab Emirates. Awady, however, stayed firm in his intention to meet with Al-Shehhi and told him that he would come to Hamburg the next weekend.

Al-Shehhi's father had called Awady's father, who had then ordered his son to go and check upon Al-Shehhi. Awady was, thus, not going to let himself be swayed out of meeting with Al-Shehhi in Hamburg.

Awady drove to Hamburg by car and did not know the way to Al-Shehhi's apartment. Thus, they met each other at the Hamburg train station. It was obvious to Awady that Al-Shehhi did not want Awady to see his apartment in Hamburg.

Awady knew that Al-Shehhi would never eat in a restaurant where wine was served, such as an Italian restaurant. Al-Shehhi would also never eat at McDonald's since he claimed that it was owned by Jews.

Awady, thus, suggested that they go drink tea at Al-Shehhi's apartment, so that Awady could learn Al-Shehhi's address. Neither Al-Shehhi's brother, nor Ali (Last Name Not Provided), nor the UAE Embassy, nor Khalid (Last Name Not Provided) knew Al-Shehhi's address.

Awady did not care about seeing Al-Shehhi's room, so long as he got a chance to find out Al-Shehhi's address.

In the end, Awady and Al-Shehhi drove to Al-Shehhi's apartment in Hamburg-Harburg. Al-Shehhi lived in the apartment on the first floor. There were two (2) or three (3) rooms in the apartment, as well as a hallway, bathroom and kitchen. Awady recalled seeing at least one (1) bedroom.

The apartment was sparsely furnished with a few mattresses and a prayer table.

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Awady did not know how many other people lived in the apartment since he did not meet anyone else in the apartment.

Chief Judge Rühle then asked if he could explain why he had problems recognizing two (2) pictures shown to him by police investigators. Awady had told the police investigators that he did not recognize Picture #30, and that he thought that he recognized the other picture. Awady explained that the pictures depicted the apartment prior to the renovations. Consequently, Awady was unable to recognize those pictures.

Awady did not think that Al-Shehhi's name was on the outside apartment door buzzer.

Al-Shehhi had told Awady that he was not registered as a resident at that location. He was only temporarily living in that apartment until he found something better. As a result, his name was not listed on the outside apartment door buzzer.

Chief Judge Rühle now showed him two (2) pictures of houses. Awady said that the first picture was not Al-Shehhi's apartment building, while the second picture could have been his apartment building. However, he was unsure of his identification of that photograph.

Upon seeing a floor plan of an apartment, Awady said that he was unsure if that was Al-Shehhi's apartment.

Associate Judge (First Name Unknown) Sakuth then asked whether Al-Shehhi said that he did not want his Embassy to know his whereabouts. Awady testified that Al-Shehhi had not said this. Awady learned where Al-Shehhi was living and told him that his brother also wanted to know his address.

Awady did not report back his findings to Al-Shehhi's family. Awady believed Al-Shehhi when he had said that this was only a temporary living arrangement, and that he would move out into a better apartment soon.

Awady later spoke with Al-Shehhi's brother about this matter when he came to Germany to look for Al-Shehhi.

When Awady saw Al-Shehhi at the wedding, he thought that things were going better for Al-Shehhi.

When they met during previous times, Al-Shehhi never seemed to care where they would plan to meet. He did, however, inform Awady that he only had a small room in a student dormitory, so

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that they might want to meet elsewhere. As a result, they usually met somewhere else in the city.

Al-Shehhi told Awady that he wanted to bring his wife back to Germany from Dubai. He had already applied for a tourist visa for her, and now he needed a larger apartment for the two (2) of them.

Associate Judge Dr. (First Name Unknown) Mohr now asked Awady how many days Al-Shehhi had remained in Dubai. Awady testified that Al-Shehhi spent between ten (10) and fifteen (15) days in Dubai. Awady thought that he might have returned to Germany on January 20th.

Associate Judge Mohr noted an apparent discrepancy in Awady's testimony. Namely, Awady had stated in his statement provided to police investigators that Al-Shehhi did not return to Germany until February. He now asked Awady which date was correct.

Awady answered that he thought that Al-Shehhi had returned to Germany by January 20th. He recalled that Al-Shehhi had told him that he needed to get back to the university in Hamburg. If he returned after January 20th, then he would have returned to the university too late.

Awady had also heard from Al-Shehhi's brother that Al-Shehhi needed to stay ten (10) to twenty (20) days in Dubai, since he needed to procure a new passport.

Chief Prosecutor Hemberger asked Awady whether he had seen Al-Shehhi with anyone. Awady answered that he had seen Naja (phonetic) (Last Name Not Provided) with Al-Shehhi.

The court excused Awady without requiring him to swear an oath to his testimony.

The court then adjourned until 11:00 a.m., at which time the next witness would be called.

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LEAD (X) :

Set Lead 1: (Info)

COUNTERTERRORISM

AT ETIU4, DC

Read and clear.

Set Lead 2: (Info)

INTERNATIONAL OPERATIONS

AT IO1, DC

Read and clear.

Set Lead 3: (Info)

NEW YORK

AT NEW YORK, NY

Read and clear.

Set Lead 4: (Discretionary)

WASHINGTON FIELD

AT WASHINGTON, DC

Disseminate as necessary.

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Precedence: ROUTINE

Date: 12/05/2003

To: Counterterrorism

Attn: ITOS1, ETIU-4,

SSA [REDACTED]

IOS [REDACTED]

International Operations
New York

Attn: SSA [REDACTED]

Attn: PENTTBOM Team,

SA [REDACTED]

Washington Field

Attn: Squad IT-6,

SA [REDACTED]

From: Berlin

Contact: SA [REDACTED] [REDACTED]

Approved By: [REDACTED]

Drafted By: [REDACTED]:cta

Case ID #: 315N-WF-227135 (Pending)

Title: ABDELGHANI MZOU DI, aka
Talha
IT-AOT

Synopsis: Report testimony of Heinz Fromm, President of the BfV, provided on 10/24/2003.

Administrative: All court proceedings were conducted in the German language. SA [REDACTED] translated his summary notes from German into English.

Enclosure(s): Enclosed is one (1) FD-340 containing original notes concerning Heinz Fromm's testimony and the court proceedings.

Details: On 10/24/2003, Special Agent ("SA") [REDACTED] attended the morning session of the criminal trial of Abdelghani Mzoudi convened by the Third Criminal Panel of the Hanseatic Higher Regional Court (3. Strafsenat des Hanseatisches Oberlandesgericht) in Hamburg, Germany.

Appearing for the prosecution were Chief Prosecutor Walter Hemberger and Prosecutors Dr. Matthias Krauß and Gerhardt Hummer from the Federal Prosecutor's Office for the Federal Republic of Germany ("Generalbundesanwaltschaft").

Appearing for the defense were Gül Pınar and Michael Rosenthal.

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Appearing for the civil litigants ("Nebenkläger") were Andreas Schulz, and Dr. (First name Unknown) von Gröhn, appearing on behalf of Dr. Ulrich von Jeinsen, and other German attorneys appearing on behalf of the various civil litigants.

The court now called Heinz Fromm (hereinafter "Fromm"), a fifty-five (55) year old attorney currently serving as the President of the German Federal Office of Constitutional Protection ("Bundesamt für Verfassungsschutz", hereinafter "BfV") located in Cologne, Germany, to testify about statements concerning September 11th which he had made during an interview with the "Süd-Deutsche Zeitung" on 07/06/2003.

Fromm advised the court that he was not related to Abdelghani Mzoudi, Mounir El Motassadeq, Ramzi Mohammed Abdullah Binalshibh, Said Bahaji or Zakariya Essabar.

Fromm provided the court with a letter from the German Minister of the Interior which addressed the scope of his authority to provide testimony before the court. Fromm's testimony was restricted to statements he had made to the "Süd-Deutsche Zeitung." He was prohibited from disclosing any classified sources or any information derived from foreign sources.

Fromm testified that he gave the interview to the "Süd-Deutsche Zeitung" and that all of his statements made during the interview were correct. Specifically, the attacks of September 11th were not conceived in Hamburg, but rather in Afghanistan. Furthermore, those individuals from Hamburg who had been involved in the attacks on September 11th had wanted to travel to Chechnya to fight. Upon reaching Afghanistan, they were recruited by Al-Qaeda for their English abilities, and were persuaded to participate in the September 11th attacks.

This represented the conclusion of the BfV which it publicly reported in May 2003 as part of its Annual Report for the Year 2002. The BfV's conclusion was based upon the totality of the information available to it.

According to Fromm, Khalid Sheikh Mohammed (hereinafter "KSM") was the operational "mastermind" of the September 11th attacks for Al Qaeda. This view of KSM as the "mastermind" was supported by an Al-Jazeera interview of Ramzi Mohammed Abdullah Binalshibh (hereinafter "Binalshibh") and KSM conducted in 2002. The interview was first broadcast by the Al-Jazeera network in September 2002.

Specialists at the BfV had analyzed this interview and deemed it as authentic.

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Furthermore, the Al-Jazeera journalist, who had interviewed both Binalshibh and KSM, later co-authored a book, Masterminds of Terror, which explained the interview results in greater detail. The book stated that the planning for the September 11th attacks originated in Afghanistan with KSM.

That the planning for the September 11th attacks originated in Afghanistan was the critical point, according to Fromm. The BfV knows, or believes to know, that the Hamburg Group intended to travel to Chechnya.

Chief Judge Klaus Rühle then asked Fromm whether Binalshibh, Mohammed Atta, Marwan Yousef Mohamed Rashed Al-Shehhi and Ziad Samar Jarrah traveled to Afghanistan in order to fight in Chechnya and then proposed the September 11th concept to senior Al-Qaeda leadership there, or whether the entire plan was conceived solely in Afghanistan by KSM.

Fromm testified that the Hamburg Group became ever more radical in its views. While in Hamburg, they developed an interest in participating in a militant "Jihad." The BfV was certain of this development.

However, the planning of the attacks on New York City and the Pentagon were conceived and initiated much earlier in Afghanistan.

The BfV was convinced that the members of the Hamburg Group only intended to travel to Chechnya to participate in a "Jihad."

Chief Judge Rühle asked Fromm to identify the sources of information upon which the BfV was basing its conclusions.

Fromm stated that these conclusions were based upon the investigative results developed by the police and by the prosecutor's offices, from information exchanged with domestic and foreign intelligence agencies, and upon both intelligence operations and "open sources" of information derived from the Internet.

The Chief Judge then asked whether Fromm was basing his conclusions upon information developed by the German Federal Criminal Police ("Bundeskriminalamt", hereinafter "BKA").

Fromm testified that he had not said that they were planning to go to Chechnya by way of Afghanistan. They only wanted to go to Chechnya, but at some point they changed their plans and decided to go to Afghanistan instead. Once they arrived in Afghanistan their "target direction" was altered.

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The Chief Judge then asked whether he had understood Fromm correctly, in that they only wanted to go to Afghanistan and not to Chechnya via Afghanistan.

Fromm answered that this was correct. They had traveled to Afghanistan because they knew that one could complete military training there in less than one year. This, according to Fromm, was their goal for traveling to Afghanistan.

It was the BfV's conclusion that they were recruited in Afghanistan as a result of their English language abilities, and their familiarity with Western countries. This conclusion was based upon "open" sources of information available to the BfV.

The attacks on the World Trade Center (hereinafter "WTC") were planned by KSM. Those who had arrived in Afghanistan from Germany simply became the means to execute the plan. They were asked to volunteer for this plan.

Chief Judge Rühle asked whether Fromm meant that the entire plan had been conceived by Binalshibh and KSM. Fromm testified that this was correct.

The Chief Judge told Fromm that Motassadeq had claimed this same allegation. The Chief Judge noted that the Hanseatic Higher Regional Court in Hamburg had recently convicted Mounir El Motassadeq (hereinafter "Motassadeq") under a prosecutorial theory similar to the one now presented before the Mzoudi trial court. He asked Fromm whether they had just convicted an innocent man to fifteen (15) years in prison. The Chief Judge rhetorically asked Fromm that if his interpretation of the facts was accurate, then should not the court have declared Motassadeq innocent and released him?

Defense attorney Pinar then noted for the court that the Binalshibh interview was considered by intelligence services to be true and accurate.

Chief Judge Rühle asked whether the BfV had any of its own sources upon which the BfV was basing its conclusions.

Fromm answered that there were none in that regard.

The Chief Judge then asked whether there was a person who could corroborate that the Hamburg Group was recruited for the September 11th attacks in Afghanistan.

Fromm referred the court to look to the "open" sources of information available. For example, page 30 of the U.S.

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Congressional Report on September 11th stated that the American intelligence community considered KSM to have been the "mastermind" for the attacks. Fromm was not permitted to testify to anything more than this statement.

The Chief Judge asked again whether it was Fromm's testimony that the planning for the September 11th attacks was devised and decided upon solely in Afghanistan. Fromm testified that this was correct.

Chief Judge Rühle now asked if there were any sources which could state that the Hamburg Group had not considered or conceived of the September 11th attacks on their own.

Fromm answered that it was not so "black and white" as the court was trying to depict the situation. The members of the Hamburg Group were not completely clueless when they traveled to Afghanistan. They intended to undertake a "Jihad" and the trip to Afghanistan was in preparation for such activities. However, once they arrived in Afghanistan, their ultimate goal became finalized. Their purpose was re-directed and they were set upon the World Trade Center and the Pentagon as their final target.

Furthermore, Fromm noted that there were two (2) of the September 11th participants who were mentioned on page 233 of the U.S. Congressional Report on September 11th as having been in Kuala Lumpur, Malaysia in January. It was known that Khalid Al-Midhair and Nawaf Al-Hamsi traveled to the United States from Malaysia to commence with their flight training. This was an important point, according to Fromm.

If the Hamburg Group conceived of the plan on its own in Hamburg, and then traveled to Afghanistan to present this plan as alleged, then it was unlikely that Al-Midhair and Al-Hamsi would travel to the United States from Malaysia at approximately the same time for the same reason. Consequently, it was the BfV's conclusion that Al-Qaeda's senior leadership had been searching throughout the entire world for persons to be recruited for the September 11th attacks.

Of further importance was the fact that the members of the Hamburg Group never undertook any activities to prepare for the September 11th attacks prior to December 1999. Although they already displayed anti-American sentiments, they never undertook any specific preparations such as seeking flight instruction in Germany. According to Fromm, it was possible that they might have undertaken some actions in furtherance of which the BfV was unaware, but, generally, the BfV had concluded that the plan for the September 11th attacks had not originated in Hamburg.

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Chief Judge Rühle then asked if Fromm was aware that Binalshibh had flown to Malaysia before his travels to Afghanistan, and whether Fromm could explain the significance of this fact. Fromm answered that he had no authority to testify further on this matter.

The Chief Judge then asked whether Fromm could completely exclude the possibility that the idea and plan to use aircraft as bombs had existed before the group's trip to Afghanistan. Fromm said that this could not be completely discounted.

Associate Judge (First Name Unknown) Sakuth then asked why they gave up on their plan to go to Chechnya. Fromm answered, "no," and added that he could give no further information.

He then asked Fromm if he could explain the group's motivation for changing their plans. Again, Fromm answered, "no," and added that he could give no further information.

Chief Judge Rühle then asked Fromm what exactly he had meant with his answer, "no." He asked whether Fromm meant that he did not know the answer to the question, or that he was not authorized to provide an answer to that question.

Fromm answered that if he provided any further explanation in his answers, then the court and the public would know what he did or did not know.

Chief Judge Rühle explained to Fromm that this was why he had been called as a witness before the court.

Defense attorney Gül Pinar now complained to the court that it was treating Fromm differently than how it had treated the FBI witness. When the FBI witness had advised the court that he did not have the authority to testify on that matter, the court had only laughed and allowed him to continue.

Chief Judge Rühle informed Pinar that Special Agent [redacted] had presented the court with a written authorization restricting his testimony to certain matters.

Fromm now testified that he did not want to say further what he did or did not know.

The Chief Judge explained that the issue revolved around whether he was or was not authorized to testify before the court on these matters.

Fromm testified that he did not want to disclose matters about which someone would be able to deduce that his agency was in

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possession of certain documents which the court and the public were barred from seeing. Consequently, he had decided to confine his answers simply to the word "no."

Chief Judge Rühle advised Fromm that the word "no" had a double meaning. Namely, the court could interpret it as Fromm did not know the answer to the question, or that Fromm was not authorized to provide testimony on that specific matter.

Fromm expressed his concern that others, and by that he did not mean the court, would be able to gain insights into certain matters. He was concerned that the questions could narrow the scope to such a degree that one could deduce certain information from his answers. Fromm was worried about inadvertently disclosing classified information. Thus, he had confined himself to the simplest possible answer.

Associate Judge Sakuth then asked Fromm whether he had any knowledge whether the members of the Hamburg Group were recruited solely in Afghanistan and Pakistan, or whether they had been recruited in Hamburg which resulted in an invitation to travel to Afghanistan.

Fromm said that he did not understand what the Judge had meant by "recruited."

Associate Judge Sakuth clarified that he meant whether they had been recruited to attack the World Trade Center.

Fromm testified that this did not occur here in Germany, but rather later in Afghanistan.

Associate Judge Sakuth asked whether Fromm derived this information from "open" sources of information as well. Fromm testified that it was derived mainly from "open" sources of information which the BfV had analyzed and weighed with respect to credibility.

Associate Judge Dr. (First Name Unknown) Mohr then asked how the interview of Fromm had come to exist. Fromm explained that a journalist had called the BfV and asked if Fromm could sit for an interview concerning the events of September 11th. Fromm had agreed to do so.

The Minister of the Interior had been advised of the interview and could have objected to Fromm providing an interview. He did not do so.

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The journalist's questions were submitted to the BfV in a written format in advance of the scheduled interview. Then, BfV experts reviewed the questions and provided Fromm with appropriate answers to the questions. Fromm reviewed the prepared answers, and subsequently gave those same answers to the questions posed by the journalist during the interview.

Associate Judge Dr. Mohr then asked whether Fromm had discussed those answers before the interview with other federal agencies. Fromm answered that he had not done so.

The Associate Judge then asked whether anyone else was present during the interview with Fromm. Fromm testified that the head of the BfV's Press Office was also present during the interview.

Prosecutor Dr. Matthias Krauß next asked how high up the planning for the September 11th attacks originated in the Al-Qaeda leadership, or if the basic idea for the attacks had been formed in Hamburg. Fromm testified that it was difficult to make a general statement about such matters. The BfV had concluded that the goal of attacking the World Trade Center had existed with Al-Qaeda for a very long time. It was the type of goal for which they undertook long-term planning. A similar example was the attack on the U.S. navy ship, the U.S.S. Cole. This was another target for which Al-Qaeda conducted long-term planning and preparations.

Prosecutor Dr. Krauß noted that Fromm had just testified that Al-Shehhi, Binalshibh and Atta had all traveled to Afghanistan in 1999. He now asked whether Fromm had any information if any one of them had traveled to Afghanistan prior to the 1999 trip.

Fromm testified there were claims that Atta had traveled to Afghanistan during 1998, but the BfV had no evidence to support these claims.

Prosecutor Dr. Krauß next asked Fromm whether Binalshibh had ever traveled to Afghanistan prior to the 1999 trip. Fromm testified that this question was beyond the scope of his own knowledge.

Chief Prosecutor Dr. Walter Hemberger asked Fromm how many people were trained in the camp in Afghanistan which the members of the Hamburg Group had attended. Fromm testified that he could not provide a precise number. Suffice it to say that the numbers were in the five (5) digits, encompassing thousands of participants. The BfV, however, did not have any precise numbers to that effect.

The Chief Prosecutor now asked Fromm how many of these thousand of participants spoke English. Fromm answered "no."

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Next, he asked Fromm how many of the thousands of participants had come to the camp from Western countries. Again, Fromm answered "no." He then stated that he was unsure if he was permitted to provide an answer, since he was uncertain if this question was related to the scope of his prior interview. After all, Fromm explained that he was not an expert witness.

Chief Prosecutor Dr. Hemberger told Fromm that he had just testified that there had been thousands of participants at the camp, and that these four (4) participants had been selected and recruited for their knowledge of English and familiarity with Western countries. He now wanted Fromm to explain why they had been selected over the thousands of other participants.

Fromm explained that an analysis conducted by the BfV and others had come to the conclusion that there were no other suitable people available. Fromm could only speculate that they had been selected for their language abilities.

Attorney Andreas Schulz asked Fromm if he could provide a specific time period for the recruitment in Afghanistan. Fromm asked whether Schulz wanted him to narrow the time frame. Schulz asked him to do so.

Fromm then testified that since they knew when the Hamburg participants traveled to Afghanistan, they had concluded that the recruitment occurred at some time around January.

Attorney Schulz then directed Fromm's attention to a news article in "Die Welt," in which it was noted that Al-Qaeda's former, closely controlled, hierarchical leadership structure had been altered to a more loose network-like form after September 11th. He asked Fromm if he could comment to this change.

Fromm testified that some aspects of Al-Qaeda's methods had undergone changes due to the successes of the military campaign against Al-Qaeda in Afghanistan and the world-wide manhunts for senior Al-Qaeda leaders. That Al-Qaeda had changed its leadership and planning structure was evident from Al-Qaeda attacks executed since 09/11/2001. Prior to September 11th, the planning and coordination for such attacks was being undertaken from Afghanistan.

Attorney [] now asked Fromm whether his testimony before the court today concerning Afghanistan was not the result of recent criticism directed against his agency, the BfV, for having overlooked the threat of Al-Qaeda in Hamburg, and not having done enough prior to September 11th to investigate that threat.

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Fromm stated that the testimony that he gave today was the result of analysis conducted by the BfV's experts. The BfV experts, as well as Fromm himself, were convinced of the accuracy of their conclusions.

Attorney Schulz asked to what degree the effect of disinformation by Al-Qaeda had been considered with respect to his testimony pertaining to the Al-Qaeda camp in Afghanistan. Fromm advised that disinformation was always present in such information, and it had been appropriately considered in the final analysis.

Attorney Schulz now re-phrased his question and asked again to what degree the disinformation had been considered with respect to the "open" sources of information upon which Fromm was basing his testimony about the camp in Afghanistan.

Fromm testified that disinformation was always considered in the final analysis, but the greater the number of independent sources of information one utilized in the analysis, the higher the probability that the information was accurate.

Attorney Schulz asked Fromm to explain how this was specifically addressed. Fromm responded that the question had already been answered. All the sources of information utilized had been noted.

Attorney Schulz asked Fromm how the disinformation was checked. Fromm explained that he did not check the information himself since he is only the head of a federal agency.

Attorney Schulz advised Fromm that such checking of the information was important to the final analytical conclusions. One could not simply read a book and then state that one was convinced of its credibility. Schulz asked Fromm what the BfV had done to check the "open" sources of information upon which it was basing its conclusions.

Fromm answered that the information had been checked.

Attorney Schulz asked whether the U.S. Congressional Report on September 11th was one of the sources of information against which the other "open" sources had been checked. Fromm answered that this was correct.

Attorney [] now asked Fromm what he had meant by the "intelligence community." Fromm testified that all intelligence services work in a similar manner. They either exclude something as improbable, or they are convinced of its accuracy and credibility. Fromm could not say any more to this matter.

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Attorney Schulz then asked Fromm who had checked the accuracy of the U.S. Congressional Report on September 11th. Fromm could not answer that question, and suggested that Schulz direct his question to the United States Government.

Defense attorney Pinar asked Fromm what he would say if someone stated that the planning had not occurred in Afghanistan, but instead in Hamburg. Fromm testified that this would contradict the analysis and conclusions of the BfV.

She now asked whether this was derived from "open" sources of information. Fromm testified that it was derived from all available "open" sources of information which had been evaluated.

She then asked how probable was it that the idea for using aircraft as bombs for September 11th had been conceived in Hamburg before the trip to Afghanistan.

Attorney Schulz objected to the form of the question as being based upon probability factors.

The Chief Judge overruled the objection and allowed the question to stand.

Attorney Schulz asked the entire court panel to issue a formal ruling.

The court now granted a short recess, while it deliberated about the objection.

When the court returned to the courtroom, the Chief Judge ruled that the question, of the likelihood of the Hamburg Group having conceived of utilizing aircraft as bombs before the Afghanistan trip, would be permitted to stand.

Fromm now testified that he was only familiar with the BfV's own analysis and conclusions. He could not exclude the possibility that the idea had been conceived in Hamburg, but he could not say so with any specific degree of probability.

Defense attorney Pinar asked whether there was any other analysis which had come to a different conclusion than the one presented by Fromm. Fromm testified that the BfV was unaware of any activities that were undertaken in Germany to prepare for the September 11th attacks. The first indications of preparations for the September 11th attacks came at the end of 1999 when the Hamburg Group members began to interest themselves in flight training.

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Defense attorney Pinar now asked that Fromm's testimony be cited in the final verdict.

Chief Judge Rühle informed Pinar that it would be noted.

Defense attorney Pinar then asked Fromm if he could explain what he had meant by his testimony that the members of the Hamburg Group became ever more radical in their perspective.

Fromm advised that he had already explained this to the court. Atta and the other members of the Hamburg Group were not the fanatical Muslims that they later became to be. They had decided in 1998 or 1999 to take part in a Holy War and fight to the death, if necessary.

Defense attorney Pinar then asked whether it was a necessary element of their radical development to travel to Afghanistan. Fromm answered that it was not a necessary aspect of radical Islamic development.

She also asked whether Islamic radicals go to Afghanistan to participate in a "Jihad." Fromm advised that those radicals could go to Afghanistan to participate in "Jihad." However, they could also go to Chechnya and Bosnia to participate in a "Jihad."

Defense attorney Pinar asked how Fromm was able to identify the time period during which the Hamburg Group members were recruited for the September 11th plan. Fromm testified that this information was derived from the results of statements given by detained Mujahadeen. The information was also derived from "open" sources of information and information shared with the BfV by other intelligence agencies. Fromm could not answer the question any further.

Prosecutor Dr. Krauß next asked Fromm if he was aware that flight simulator computer programs had been discovered on Motassadeq's computer, and that these programs had existed on his computer prior to 1999. Fromm testified that this information was not known to him. If this were true, then such information would have been known by the experts at the BfV. Nonetheless, Fromm did not consider this information as relevant, since it would not have altered the final conclusion issued by the BfV.

Chief Prosecutor Walter Hemberger then asked Fromm if he had understood Fromm's testimony correctly. Namely, the BfV's conclusion that there was no previous intention to commit the acts of September 11th was based upon the absence of preparations for executing the plan, such as undertaking flight training. Fromm answered that it could not be viewed in such a strict manner.

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Associate Judge Sakuth asked Fromm how the Al-Jazeera journalist had been able to travel to Afghanistan and find the Al-Qaeda leadership. Fromm testified that it was described in the book. The journalist initially traveled to Pakistan where he waited for a telephone call. Thereafter, he was taken to a location where he was able to interview Binalshibh and KSM. Fromm had not seen the video of the interview, but he was familiar with the subsequent book. Fromm only knew the substance of the book's statements.

Defense attorney Pinar noted that she had seen the video, but that one could not see the faces of the interview subjects. She asked Fromm whether he doubted the authenticity of the identities of the interview subjects. Fromm answered that he did not doubt the identities of the interview subjects. In fact he had no doubts whatsoever regarding the authenticity of the statements made or the identities of the subjects.

Chief Judge Rühle asked if Fromm was basing his conclusions on the book by the Al-Jazeera journalist. Fromm said that it was so.

The Chief Judge informed Fromm that he was unfamiliar with this interview, either on film or in book format. Fromm suggested that the court obtain excerpts of the interview from the Internet.

The court then excused Fromm without requiring him to swear an oath to this testimony.

Defense Motion to Dismiss the Indictment and Release the Defendant

Defense attorney Michael Rosenthal advised the court that Fromm's testimony, which had been based upon carefully analyzed information, presented conclusions fundamentally contradicting the prosecutorial theory for the case. His testimony called into question not only whether the planning for the September 11th attacks had been formulated in Hamburg, but also whether such planning existed before or after 1999. If Fromm's testimony was correct, then the prosecution's Indictment was fundamentally flawed. Consequently, the defense was filing a Motion to Dismiss the Indictment and Release the Defendant from Custody.

Chief Prosecutor Hemberger argued against a dismissal of the matter. Fromm's testimony should not mislead the court into concluding that the prosecution's Indictment was incorrect. His testimony was based upon conclusions which had no further bearing to the main elements of the underlying criminal offenses.

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Chief Judge Rühle informed the defense that any Motion to Dismiss the Indictment and Release the Defendant from Custody needed to be in writing.

Thereafter, the court adjourned for lunch until 1:30 p.m. at which time the next witness was scheduled to testify.

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LEAD (S):

Set Lead 1: (Info)

COUNTERTERRORISM

AT ETIU4, DC

Read and clear.

Set Lead 2: (Info)

INTERNATIONAL OPERATIONS

AT IO1, DC

Read and clear.

Set Lead 3: (Info)

NEW YORK

AT NEW YORK, NEW YORK

Read and clear.

Set Lead 4: (Discretionary)

WASHINGTON FIELD

AT WASHINGTON, DC

Disseminate as necessary.

fromm2.wpd

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